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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,714	11/03/2003	Lanny R. Smith	40059-0010	6022

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EXAMINER

FETSUGA, ROBERT M

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/700,714

Applicant(s)

SMITH, LANNY R.

Examiner

Robert M. Fetsuga

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

1. The drawings are objected to because Figs. 1 and 2 apparently should include a "Prior Art" legend, and reference numeral "31" (par. 0005 ln. 4) is missing.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "retractable pool cover" set forth in claims 1, 11, 24 and 31, "adjacent form members" set forth in claims 9 and 28, "guide member" set forth in claim 11, and "method" steps set forth in claims 24 and 31, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of

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the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The disclosure is objected to because of the following informalities: Paragraph 0005, line 5, "16" apparently should be --12--; paragraph 0021, line 7, "102" apparently should be --92--; and "83" (Fig. 4B) lacks a description.

Appropriate correction is required.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "structure" set forth in claims 3, 5, 6, 8 and 13, "coupling member" set forth in claims 7 and 15, "alignment member" set forth in claim 9, "mating structure" set forth in claims 13, 14, 17-19, 32 and 33, and "method" language set forth in claims 24-26, 28 and 31-33, could not be found in the specification. Applicant is reminded claim terminology in mechanical cases

should appear in the descriptive portion of the specification by reference to the drawing(s).

4. Claims 24 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24 is unclear as to whether the "elongated track" is intended to be part of the claimed combination since structure of the "edging" is defined as being connected thereto (ln. 4), but no positive structural antecedent basis therefor has been defined. Claim 31 is similarly indefinite.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-8, 11-21, 23-27 and 29-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Stegmeier.

The Stegmeier reference discloses an apparatus comprising: a form member 28 including a portion/structure 37; a support member 50 including a first portion/structure 76 and a second portion/structure 84; a coupling member 38; and an elongated track 48, as claimed.

7. Claims 9, 10 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stegmeier and applicant's admitted prior art.

Although the form member of the Stegmeier apparatus does not include an alignment member, as claimed, attention is directed to applicant's admitted prior art (apa) which discloses an analogous apparatus (Figs. 1 and 2) which further includes an alignment member 49. Therefore, in consideration of apa, it would have been obvious to one of ordinary skill in the art to associate an alignment member with the Stegmeier apparatus in order to facilitate construction.

8. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stegmeier and Bumgarner, Sr.

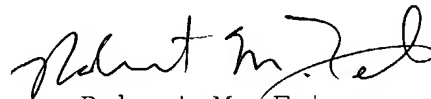
Although the shape of the Stegmeier form member does not include bull-nose, as claimed, attention is directed to the Bumgarner, Sr. (Bumgarner) reference which discloses an

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analogous form member 38 which further includes a bull-nose shape (Fig. 3). Therefore, in consideration of Bumgarner, it would have been obvious to one of ordinary skill in the art to associate a bull-nose shape with the Stegmeier form member in order to construct a different, known, edging shape.

9. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

10. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 703/308-1506 who can be most easily reached Monday through Thursday.

A handwritten signature in dark ink, appearing to read 'Robert M. Fetsuga', is positioned above the printed name.

Robert M. Fetsuga  
Primary Examiner  
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